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No. _____

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In the
Supreme Court of the United States

STEWART TITLE GUARANTY COMPANY, JOHN K.
VOYATZIS, JKV REAL ESTATE SERVICES, INC., AND
FIDELITY NATIONAL TITLE INSURANCE COMPANY,
Petitioners,

v. _____

SEAN C. LOGAN, CHAPTER 7 TRUSTEE,
Respondent.

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Court of Appeals' holding that trustees in bankruptcy have standing to assert claims of creditors against non-debtor third parties conflicts with the United States Supreme Court's decisions in *Caplin v. Marine Midland Grace Trust Co. of New York*, 406 U.S. 416 (1972) and *Segal v. Rochelle*, 382 U.S. 375 (1966), and Congress' intent in enacting sections 544 and 541(a)(7) of the United States Bankruptcy Code.
2. Whether the Court of Appeals erred in finding that a Chapter 7 trustee is not barred by the doctrine of *in pari delicto* from asserting claims against non-debtor third parties arising out of the debtor's illegal and fraudulent scheme.

RULE 14.1(b) STATEMENT

A list of all parties to the proceeding in the Court whose judgment is the subject of this petition is as follows:

The Petitioners, and the Defendants-Appellees below, are Stewart Title Guaranty Company, JKV Real Estate Services, Inc., John K. Voyatzis, and Fidelity National Title Insurance Company.

The Respondent, and the Plaintiff-Appellant below, is Sean C. Logan, the Chapter 7 Trustee for the bankruptcy estates of Michael Bogdan, a/k/a Andrew Michael Bogdan, and Inner City Management, L.L.C.

There were no additional parties to the proceedings below.

RULE 29.6 STATEMENT

Stewart Title Guaranty Company is a corporation organized and existing under the laws of the State of Texas with its principal place of business located at 1980 Post Oak Boulevard, Houston, Texas. Stewart Title Guaranty Company is primarily engaged in providing title insurance through a network comprising more than 7,800 policy-issuing offices and agencies. Stewart Title Guaranty Company is a wholly owned subsidiary of Stewart Information Services Corporation, a Delaware corporation that has its principal place of business located at 1980 Post Oak Boulevard, Houston, Texas. The securities of Stewart Information Services Corporation are publicly traded on the New York Stock Exchange.

JKV Real Estate Services, Inc. is a corporation organized and existing under the laws of the State of Maryland with its principal place of business located at 8341 Cherry Lane, Laurel, Maryland. JKV Real Estate Services, Inc. is in the business of providing real estate services within the State of Maryland. JKV Real Estate Services, Inc. has no parent corporation, and no publicly held company owns ten percent (10%) or more of its stock.

Fidelity National Title Insurance Company is a corporation organized and existing under the laws of the State of California with its principal place of business located in Jacksonville, Florida. Fidelity National Title Insurance Company is primarily engaged in providing title insurance through a network of offices and agencies. Fidelity National Title Insurance Company is a wholly owned subsidiary of Fidelity National Financial, Inc., a Delaware corporation with its principal place of business in Jacksonville, Florida. The securities of Fidelity National Financial, Inc. are publicly traded on the New York Stock Exchange.

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PETITION FOR WRIT OF CERTIORARI

The Petitioners, Stewart Title Guaranty Company, JKV Real Estate Services, Inc., John K. Voyatzis, and Fidelity National Title Insurance Company respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the Court of Appeals is published at 414 F.3d 507. (App. at 3a-22a). A petition for rehearing and petition for rehearing *en banc* was denied without opinion on August 2, 2005. (App. at 1a-2a). The opinion of the United States District Court for the District of Maryland was not reported (App. at 23a-30a). The opinion of the United States Bankruptcy Court for the District of Maryland is reported at 304 B.R. 250 (App. at 31a-39a).

JURISDICTION

The United States Court of Appeals for the Fourth Circuit issued its opinion on July 6, 2005 (App. at 3a-22a), and its order denying rehearing and rehearing *en banc* was entered on August 2, 2005. (App. at 1a-2a). The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

RELEVANT STATUTORY PROVISIONS

Pursuant to Rule 14.1(f) of the Rules of the Supreme Court of the United States, all relevant statutory provisions are reproduced in their entirety in the appendix to this petition. A summary of the relevant statutory provisions follows.

Section 323 of the United States Bankruptcy Code permits the trustee in bankruptcy to intervene in any lawsuit as the estate's representative and to commence an action on behalf of the estate. In addition, the trustee in bankruptcy has the

exclusive capacity to sue and be sued on behalf of the bankruptcy estate.

Section 541 of the United States Bankruptcy Code establishes that the filing of a bankruptcy petition creates an estate. In addition, section 541 defines property of the estate and specifies what property becomes property of the bankruptcy estate.

Section 544 of the United States Bankruptcy Code contains the "strong arm clause" that allows the trustee the rights and powers of a hypothetical lien creditor or a hypothetical *bona fide* purchaser of real property at the time of the commencement of the case.

Section 704 of the United States Bankruptcy Code enumerates the essential substantive duties of a trustee appointed under Chapter 7 of the United States Bankruptcy Code.

Section 726 of the United States Bankruptcy Code is the general distribution scheme for liquidation cases. It dictates the order of distribution of estate property that has been reduced to money by the trustee.

Section 157(b) of Title 28 of the United States Code provides that a bankruptcy judge may hear and determine all cases and core proceedings arising in or arising under Title 11.

STATEMENT OF THE CASE

This petition seeks review of a decision of the United States Court of Appeals for the Fourth Circuit (the "Court of Appeals") with respect to the standing of a Chapter 7 trustee appointed under the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, to assert causes of action against non-debtor third parties based on the assignment of those causes of action from individual creditors. This petition also seeks